

***THE HON'BLE MR JUSTICE L. NARASIMHA REDDY***

**W.P.No.5723 of 2007**

**Dated 10-04-2007**

Between:

M/s Srinivasa Saw Mill

...Petitioner

And

The Divisional Forest Officer,,  
Karimnagar

...Respondent

***THE HON'BLE MR JUSTICE L. NARASIMHA REDDY***

**W.P.No.5723 of 2007**

**JUDGMENT:**

The petitioner established a Saw Mill in his native place about 20 years back, after obtaining licence from the competent authority, under the A.P. Forest Act. As of now, licence is renewed up to 31-12-2007.

Petitioner states that though the saw mill was established, in a non-residential area, over the years, residential and commercial constructions have come around the saw mill, and there are frequent and serious complaints about sound and air pollution, on account of running of the saw mill. Petitioner intended to shift the saw mill to its own land in Sy.No.977/A of the neighbouring village of Pathikuntapally, of Gangadhara Mandal. For this purpose, it submitted an application to the respondent. The remarks were called for, from the Forest Range Officer, Karimnagar. After inspection of the area, the Forest Range Officer opined that though the proposed place is 4.1 Kms., from the border of the reserve forest of Namilikonda, the permission may be accorded, since there is no forest growth in the vicinity. The respondent, however, rejected the application of the petitioner, through his proceedings dated 06-03-2007, on the ground that the proposed place is within the prohibited distance. The same is challenged in this writ petition.

Sri K. Raja Reddy, learned counsel for the petitioner, submits that the prohibition contained in Rule 3 of the A.P. Saw Mills

(Regulation) Rules, 1969 (for short '*the Rules*'), applies only in cases of fresh saw mills, and that the same does not apply to shifting of the mills. He places reliance upon the judgment rendered by the Division Bench of this Court in ***Divisional Forest Officer v. Sree Venkateswara Saw Mills***<sup>[1]</sup>.

At the stage of admission, learned Government Pleader for Forest obtained instructions, and opposed the prayer of the petitioner. She contends that the prohibition of establishment of saw mills, within a belt of 5 Kms., from the boundary of reserve forest, is imposed in the interest of public, and to protect the forest growth. She submits that the respondent has stated valid and cogent reasons in support of his conclusion, and that no exception can be taken to it.

The Rules prescribe the procedure for grant of licences for establishment of saw mills and for renewal thereof. The petitioner holds a valid licence, and it is renewed up to 31-12-2007. It intended to shift the same to a different place. Rule 3(2) of the Rules prohibits establishment of saw mills, within a distance of 5 Kms., from the boundary of any forest. The provisions read as under:

Rule 3(1): "No person shall install, erect or operate a Saw Mill for cutting, converting or sawing of timber without obtaining a licence for such installation from the Licensing Authority".

Rule 3 (2): "No licence for setting up fresh saw mills within a distance of 5 Kms., from the boundary of any Forest under the control of the Forest Department whether notified or not shall be granted, except when it is required for Departmental use".

-  
Rule 3 (3): "The distance of 5 Kms., shall be computed from topo sheets as aerial distance as crow flies".

The application submitted by the petitioner was verified by the Forest Range Officer, and it was found that the place to which the mill

is proposed to be shifted, is at a distance of 4.1 Kms., from the boundary of forest. On this basis, the respondent rejected the application.

A perusal of the provision referred to above, discloses that the prohibition is, as regards the setting up of "*fresh saw mills*". Obviously, the provision does not apply to shifting of existing saw mills. This very provision was interpreted by the Division Bench of this Court in the judgment referred to above. After extracting the Rule, and discussing the matter at length, this Court held as under:

"Undoubtedly, an existing saw mill could be shifted to another location within the same forest division but only after prior approval of the licensing authority – in the instant case, the Divisional Forest Officer, under Rule 5 (4) of rules. The bar contained in sub-rule (2) of Rule 3 applies only for setting up fresh saw mills. If the argument of the learned Government Pleader for Forests is accepted that the bar contained in sub-rule (2) of Rule 3 would also apply to the shifting of the existing saw mills, then, we are of the considered opinion that the word "fresh" occurring in sub-rule (2) of Rule 3 of the rules would be rendered redundant and surplusage".

The present case is squarely covered by the said judgment. Except that the distance was found to be within 5 Kms., from the boundary of forest, no other reason was specified for rejecting the application.

Accordingly, the writ petition is allowed, and the impugned order is set aside. The respondent is directed to pass fresh orders on the application of the petitioner, without making any reference to sub-rule (2) of Rule 3 of the Rules, within a period of four weeks from the date of receipt of a copy of this order.

There shall be no order as to costs.

L. NARASIMHA REDDY, J.

Dt. -04-2007.

KO

---

[\[1\]](#) 2002 (4) ALD 55 (DB)